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ABSTRACT

This policy brief identifies and describes the provisions of the proposed regulation describing the responsibilities of a state vocational rehabilitation (VR) agency to design and operate the state VR program as an integral component of the statewide workforce investment system, as envisioned by the Workforce Investment Act of 1998 (WIA). The proposed regulations envision major systemic changes in the operation of the state VR program through the creation of a streamlined, collaborative partnership with other components of the statewide workforce investment system. This new partnership requires a more activist role by state VR agencies regarding the provision of services to persons with disabilities in the VR program itself as well as other components of the workforce investment system. The brief addresses the goal of Title I of WIA, the relationship between the state VR program and WIA, applicable regulations, submission of the state plan, relationship between the state rehabilitation council and the state workforce investment board, the responsibilities under the comprehensive system of personnel development, requirements related to the WIA system, statewide assessment, information and referral services, the Individualized Plan for Employment, and the scope of vocational rehabilitation services under WIA. (CR)

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Policy Brief

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Provisions in the Proposed Regulations Governing the State VR Program Describing the Interplay with the Workforce Investment System

INTRODUCTION

On August 7, 1998 President Clinton signed into law the Workforce Investment Act of 1998 (Public law 105-220). Title I of the Act provides assistance to states interested in establishing statewide and local workforce investment systems (Title I of WIA). Title IV of the Workforce Investment Act sets out a complete rewrite of the Rehabilitation Act of 1973, including the State vocational rehabilitation program (State VR program).

On April 15, 1999 the Secretary of Labor published in the Federal Register (FR) interim final regulations implementing Title I of WIA. These regulations are codified at Part 662 of Title 20 of the Code of Federal Regulations (CFR). On November 12, 1999, the Secretary of Labor published interim final regulations implementing section 188 of WIA pertaining to nondiscrimination and equal opportunity. These regulations are codified at Part 37 of Title 29 of the Code of Federal Regulations.

On February 28, 2000, the Secretary of Education published ***proposed*** regulations governing the State VR program. These proposed regulations would amend current regulations codified at Part 361 of Title 34 of the Code of Federal Regulations. The Department of Education must receive comments regarding these proposed regulations on or before April 28, 2000.

The purpose of this policy brief is to identify and describe the provisions of the proposed regulation describing the responsibilities of a State VR agency to design and operate the State VR program as an integral component of the statewide workforce investment system, as envisioned by WIA. The proposed regulations envision major systemic changes in the operation of the State VR program through the creation of a streamlined, collaborative partnership with other components of the statewide workforce investment system. This new "partnership" requires a more "activist role" by State VR agencies regarding the provision of services to persons with disabilities in the VR program itself as well as other components of the workforce investment system.

The purpose of the policy brief is also to assist stakeholders identify policy issues that require additional clarification in the final regulations. In particular, the Secretary of Education specifically seeks commenters to identify questions that they consider the most pertinent to the State unit implementing the State VR program to operate an effective VR program as part of the statewide workforce investment system, including questions related to the list of One-Stop system responsibilities. [65 FR 10624 (February 28, 2000)]

For additional information about the implementation of the Workforce Investment Act from a disability policy perspective, see **Policy Briefs** entitled *Provisions in the Workforce Investment Act Describing the Interplay Between Workforce Investment Systems and Vocational Rehabilitation Programs* (April, 1999) and *Provisions in the Workforce Investment Act Relating to Nondiscrimination on the Basis of Disability and the Development by the Governor of a Written Methods of Administration* (March, 2000).

Also see the following papers: *A Description of the Workforce Investment Act From a Disability Policy Perspective* (Silverstein, January, 2000); *A Preliminary Analysis of the Relationship Between the Workforce Investment Act and the Federal Disability Policy Framework* (Silverstein, January, 2000); *People With Disabilities: Having a Voice in the Creation of the New Workforce Investment System* (Institute for Community Inclusion, March 2000). These publications are available via the Institute for Community Inclusion web site at <*www.childrenshospital.org/ici*>.

BACKGROUND-THE GOAL OF TITLE I OF WIA

What is the overall goal of Title I of WIA?

The overall goal of Title I of the Workforce Investment Act (Title I of WIA) is to increase employment, retention, and earnings of persons (including persons with disabilities) participating in employment-related activities supported by an integrated workforce investment system. The establishment of a One-Stop service delivery system is the cornerstone of the legislation. [65 FR 10620 (February 28, 2000)]

The intent of this system is to streamline and expand access to numerous workforce investment and educational and other human resource services, activities and programs for job seekers, including individuals with disabilities, and for employers. Rather than requiring individuals and employers to seek workforce development information and services at several different locations, Title I of WIA requires States and communities to create a user-friendly One-Stop system through the coordination at the "street level" of multiple workforce development programs and resources. [65 FR 10620 (February 28, 2000)] This "seamless" system has been described by the Department of Labor (DOL) as a "one right door and no wrong door approach." [64 FR 18669 (April 15, 1999)]

This One-Stop service delivery system must be designed to address the needs of all individuals, including individuals with disabilities. In order to make services available under the One-Stop system to persons with disabilities, the system must be "accessible" consistent with the provisions of WIA,

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the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act of 1973. [65 FR 10621, (February 28, 2000); 64 FR 9403-9404 (February 25, 1999)]

RELATIONSHIP BETWEEN THE STATE VR PROGRAM AND WIA

What is the relationship between the State VR program and WIA? Why is the State VR program included as part of the statewide workforce development system?

The State vocational rehabilitation services program (the State VR program) must be an integral part of a statewide workforce investment system. [34 CFR 361.1]

The preamble to the proposed regulation explains why. Participation by State units administering the VR program will result in enhancing the range and quality of services accessible to program participants. Collaboration is intended to produce better information, more comprehensive services, easier access to services, and improved long-term employment outcomes. Thus, effective participation of the State VR program is critical to enhancing opportunities for individuals with disabilities in the VR program itself as well as other components of the workforce investment system in each State and local area. [65 FR 10621, 10624 (February 28, 2000)]

APPLICABLE REGULATIONS

Do the regulations implementing WIA apply to State vocational rehabilitation agencies?

Yes. The regulations in 20 CFR part 662 (which implements the One-Stop system requirements under Title I of WIA) apply to the State VR program. In addition, 29 CFR part 37 (which implements the civil rights requirements under section 188 of WIA) applies to the extent programs and activities of the State VR program are being conducted as part of the One-Stop service delivery system. [34 CFR 361.4]

SUBMISSION OF THE STATE PLAN

What is the relationship between the State plan submitted under the Rehabilitation Act and the State Plan submitted under WIA?

Each State is required to submit its State plan for the VR program on the same date that it submits either a State plan for Title I of WIA or a State unified plan under Section 501 of WIA. In other words, a State has three options for submitting its VR State plan.

First, a State may submit a separate VR State plan on the same date as the State submits its State plan under Title I of WIA.

Second, a State may include the State VR program as part of the State unified plan submitted under Section 501 of WIA. If the State elects this option, the portion of the State unified plan for vocational rehabilitation services must meet the State plan requirements specified in the regulations governing the State VR program.

Third, a State may submit a separate VR State plan on the same date as it submits its State unified plan (that does not include the State VR program) under Section 501 of WIA. [34 CFR 361.10]

RELATIONSHIP BETWEEN THE STATE REHABILITATION COUNCIL AND THE STATE WORKFORCE INVESTMENT BOARD

What is the relationship between the State Rehabilitation Council and the State Workforce Investment Board?

The State Rehabilitation Council must carry out its designated functions after consulting with the State Workforce Investment Board. [34 CFR 361.17(h)]

COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT

What are the responsibilities under the CSPD to train staff regarding WIA?

The State plan must include the State agency's policies and describe the procedures and activities the State agency will undertake to ensure that all personnel employed by the State unit receive appropriate and adequate training.

The specific training areas for staff development must be based on the needs of each State unit and may include, but are not limited to training regarding the Workforce Investment Act and the amendments to the Rehabilitation Act made by Title IV of WIA. [34 CFR 361.18(d)(2)(i)]

REQUIREMENTS RELATED TO THE WIA SYSTEM

Is the State vocational rehabilitation agency a required partner under WIA?

Yes. The designated State unit or the sole local agency under the supervision of the State unit is responsible for participating as a partner in the One-Stop service delivery system under Title I of WIA. [34 CFR 361.13(c)(1)(v)]

What are the general responsibilities of a State vocational rehabilitation agency as a mandatory partner under Title I of WIA?

As a required partner, the designated State unit must carry out the following functions [34 CFR 361.23(a)]:

- Make available to participants through the One-Stop service delivery system the core services that are applicable to the Program administered by the designated State unit;
- Use a portion of funds made available under the Program administered by the designated State unit (consistent with Rehabilitation Act and implementing regulations) to create and maintain the One-Stop service delivery system and provide core services;
- Enter into a memorandum of understanding (MOU) with the Local Workforce Investment Board relating to the operation of the One-Stop service delivery system,

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including a description of services, how the cost of the identified services and operating costs of the system will be funded and methods for referral;

- Participate in the operation of the One-Stop service delivery system consistent with the terms of the MOU and the requirements of the Rehabilitation Act and implementing regulations; and
- Serve as a representative on the Local Workforce Investment Board.

What are the responsibilities of other partners in the workforce investment system to serve persons with disabilities?

All partner programs (not just the VR program) have a legal responsibility under Title I of WIA, the ADA, and Section 504 of the Rehabilitation Act to serve persons with disabilities. Some individuals with disabilities may receive the full scope of needed services through the One-Stop system without accessing the State VR program at all; while others may be referred to the State unit for a program of VR services or receive a combination of services from the State VR program and other One-Stop system partners. [65 FR 10621 (February 28, 2000)]

In addition, some individuals who are eligible for VR services may choose not to participate in the VR program and, therefore, also may be served exclusively by other partner programs of the One-Stop system. [65 FR 10621 (February 28, 2000)]

What are the specific requirements regarding the entering into of cooperative agreements between State VR agencies and other partners?

The State plan must assure that the designated State unit or the designated State agency enters into cooperative agreements with other entities that are partners under the One-Stop service delivery system and replicates those agreements at the local level between individual offices of the designated State unit and local entities carrying out the One-Stop service delivery system or other activities through the statewide workforce investment system. [34 CFR 361.23(b)(1)]

The purpose of entering into of these cooperative agreements is to increase the capacity of the partners, and the One-Stop service delivery system as a whole, to better address the needs of individuals with disabilities. [65 FR 10624 (February 28, 2000)]

These cooperative agreements **may** provide for [34 CFR 361.23(b)(2)]:

- Intercomponent training and technical assistance regarding the availability and benefits of and information on eligibility standards for vocational rehabilitation services and the promotion of equal, effective, and meaningful participation by individuals with disabilities in the One-Stop service delivery system and other workforce development activities;
- The use of information and financial management systems that link all of the partners of the One-Stop service delivery system to one another and to other electronic networks and that relate to subjects such as employment statistics, job vacancies, career planning, and workforce investment activities;
- The use of customer service features such as common intake and referral procedures, customer databases, resource information, and human services hotlines;
- The establishment of cooperative efforts with employers to facilitate job placement and carry out other activities that the designated State unit and the employers determine to be appropriate;
- The identification of staff roles, responsibilities, and available resources and specification of the financial responsibility of each partner of the One-Stop service delivery system with respect to providing and paying for necessary services, consistent with the requirements of the Rehabilitation Act and implementing regulation, other Federal requirements, and State law; and
- The specification of procedures for resolving disputes among partners of the One-Stop service delivery system.

COMPREHENSIVE STATEWIDE ASSESSMENT; STATE STRATEGIES

Must the comprehensive statewide assessment address the needs of individuals with disabilities served by other components of the workforce investment system?

Yes. The VR State plan must include the results of a comprehensive statewide assessment, particularly the vocational rehabilitation services needs of, among others, individuals with disabilities served through other components of the statewide workforce investment system as identified by those individuals with disabilities and personnel assisting those individuals through the components of the system. [34 CFR 361.29(a)(1)(i) (C)]

Must the state develop strategies for assisting other components of the statewide workforce investment system in assisting individuals with disabilities?

Yes. The VR State plan must describe strategies the State will use to address the needs identified in the comprehensive assessment and achieve agreed on goals and priorities, including, among other things, strategies for assisting other components of the statewide workforce investment system in assisting individuals with disabilities. [34 CFR 361.29(d)(5)]

INFORMATION AND REFERRAL SERVICES

Do any of the requirements relating to information and referral services under the State VR program apply to WIA?

Yes. The designated State agency must implement an information and referral system. The system must, among

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other things, refer individuals with disabilities to other appropriate Federal and State programs, including other components of the statewide workforce investment system. [34 CFR 361.37(a)(2)]

In the event that vocational rehabilitation services cannot be provided to all eligible individuals with disabilities applying for the services, the State plan must show the order for selecting eligible individuals. The "order of selection" must be consistent with criteria established by the State and assure that individuals with the most significant disabilities will be selected first for the provision of vocational rehabilitation services. A designated State unit operating under an "order of selection" must assist eligible individuals who otherwise would not receive services from the State unit to secure needed employment assistance from other entities, particularly other program components of the statewide workforce investment system. [[34 CFR 361.37(a)(2); 65 FR 10625 (February 28, 2000)]

In making referrals, the designated state unit must refer the individual to Federal or State programs carried out by other components of the statewide workforce investment system best suited to address the specific employment needs of an individual with a disability. In addition, the designated State unit must provide the individual who is being referred by the designated State unit a notice of the referral to the agency carrying out the program, information identifying the specific point of contact within the agency to which the individual is being referred, and information and advice regarding the most suitable services to assist the individual to prepare for, secure, retain, or regain employment. [34 CFR 361.37(b)]

What responsibilities does the designated State unit have to establish and implement standards for the handling of referrals?

The designated State unit must establish and implement standards for the prompt and equitable handling of referrals of individuals for vocational rehabilitation services, including referrals of individuals made through the One-Stop service delivery system. [34 CFR 361.41(a)]

Once an individual has submitted an application for vocational rehabilitation services, including applications made through common intake procedures in One-Stop centers, an eligibility determination must be made within 60 days, subject to specified exceptions. An individual is considered to have submitted an application when the individual or the individual's representative has completed and signed an agency application form or has completed a common intake application form in a One-Stop center requesting vocational rehabilitation services. [34 CFR 361.41(b)(1) and (2)]

The designated State unit must ensure that its application forms are widely available throughout the State, particularly in the One-Stop centers established under Title I of WIA. [34 CFR 361.41(b)(3)]

If an individual is determined to be ineligible for State VR services, what is the responsibility of the State unit to refer the individual to other programs that are part of the One-Stop system?

If the State unit determines that an individual is ineligible for vocational rehabilitation services, the unit must, among other things, refer the individual to other training and employment-related programs that are part of the One-Stop service delivery system under Title I of WIA. [34 CFR 361.43(d)]

CONTENT OF THE INDIVIDUALIZED PLAN FOR EMPLOYMENT (IPE)

Must the IPE describe the responsibilities of entities other than the State VR program to provide services and benefits?

Yes. The terms and conditions of the IPE must include, among other things, the responsibilities of other entities as a result of arrangements made under the comparable services and benefits requirements (see below). [34 CFR 361.46(a)(6)(iii)]

Must the IPE provide for coordination of services provided under the IPE with services provided under other Federal or state programs?

Yes. The IPE must provide for the coordination of services provided under an IPE with services provided under other individualized plans established under other Federal or State programs. [34 CFR 361.46(b)(5)]

RECORD OF SERVICES

Must the designated state unit provide documentation on services provided to an individual who is referred to other programs within the One-Stop service delivery system?

Yes. In the event an individual is referred to another program through the State unit's information and referral system, including other components of the statewide workforce investment system, documentation must be provided on the nature and scope of service provided by the designated State unit to the individual and on the referral itself. [34 CFR 361.47(a)(13)]

SCOPE OF VOCATIONAL REHABILITATION SERVICES

What services related to WIA must the State unit ensure are provided to individuals with disabilities?

The term "vocational rehabilitation services" includes, among other services, referral and other services necessary to assist applicants and eligible individuals to secure needed services from other agencies, including other components of the statewide workforce investment system. [34 CFR 361.48(d)]

COMPARABLE SERVICES AND BENEFITS

How are referral and other services to secure needed

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services from other agencies under WIA treated under the comparable services and benefits provisions?

Referral and other services to secure needed services from other agencies, including other components of the statewide workforce investment system, are exempt from the comparable services and benefits requirement if those services are not available under the Rehabilitation Act and implementing regulations. [34 CFR 361.53(b)(3)]

Must the interagency agreements include policies relating to comparable services and benefits?

Yes. The State plan must assure that the Governor, in consultation with the entity in the State responsible for the vocational rehabilitation program and other appropriate agencies will ensure that an interagency agreement or other mechanism for interagency coordination takes effect between the designated State vocational rehabilitation unit and any appropriate public entity, including the State entity responsible for administering the State Medicaid program and a component of the statewide workforce investment system to ensure the provision of vocational rehabilitation services (other than services exempt from the comparable benefits and services requirement) that are included in the IPE. [34 CFR 361.53(d)]

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